



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/016,707	01/30/98	MEYER	1017US01

BRUCE E. BLACK
MERCHANT & GOULD P.C.
3100 NORWEST CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-4131

IM71/0419

EXAMINER

SHEWAREGED, B

ART UNIT PAPER NUMBER

1774

DATE MAILED 04/19/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/016,707

Applicant(s)
Meyer

Examiner
Betelhem Shewareged

Group Art Unit
1774



☒ Responsive to communication(s) filed on Apr 5, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-8, 51, and 52 is/are pending in the applicat

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-8, 51, and 52 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 10

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Art Unit: 1774

DETAILED ACTION

1. Applicant's response filed on 04/05/2000 has been fully considered. The *35 USC § 112* has been withdrawn in view of Applicant's amendment and comments.
2. Claims 9-50 are canceled, claims 1-8 are amended, claims 51 and 52 are added and thus claims 1-8, 51 and 52 are pending.
3. Applicant's argument to the *35 USC § 102* and *35 USC § 103* rejections is based on that the shape of prior art's "shot" are non-spherical, however, this argument has not been found persuasive. The prior art refers to the "shot" as small spherical particles (see page 74-3, last paragraph) and also Applicant's is claiming *substantially* spheroidal particles certainly not spherical particles, therefore, claims 1-8 stand rejected. Since prior art's particles and Applicant's particles are substantially identical the prior art's particles inherently possess the claimed average hardness and thus claim 52 is also rejected under *35 USC § 102*.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 1774

5. Claims 1-8, 51 and 52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. In claim 1, What comprises SiO_2 , Al_2O_3 , ---? Is it the coal slag or the coal fly ash or is it the hard outer shell?

b. In claim 51, the term "at least about 90%" is indefinite. At "least" indicates 90% and more, however, "about" indicates a bit less than 90% and a bit more than 90%. It is suggested that the Applicant should use the terms either "at least" *or* "about".

c. In claim 52, what is the symbol "HV"?

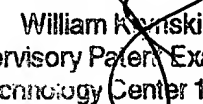
6. Any inquiry regarding this communication or earlier communications from the Examiner should be directed to Betelhem Shewareged, whose telephone number is (703) 305-0389. The Examiner can normally be reached Monday to Thursday from 7:30 AM to 6:00 PM.

A facsimile center has been established in Group 1700, Crystal Plaza 3, 8th floor, reception area. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier number for accessing the facsimile machine is (703) 305-3599 (for official after final

Art Unit: 1774

faxes) or (703) 305-5408 (for all other official faxes). This location should be used in all instances when faxing any correspondence to Art Unit 1774. Use of the Group 1700 center will facilitate rapid delivery of materials to Examiners in Art Unit 1774.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.


William K.inski
Supervisory Patent Examiner
Technology Center 1700

BS *BS*

April 20, 2000.